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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,153	10/30/2003	Ibrahim Abdulhalim	TNCR.196US2	1463
72562 7590 01/17/2008 DAVIS WRIGHT TREMAINE LLP - KLA-TENCOR CORPORATION 505 MONTGOMERY STREET, SUITE 800 SAN FRANCISCO, CA 94111-6533			EXAMINER LAUCHMAN, LAYLA G	
			ART UNIT 2877	PAPER NUMBER
			MAIL DATE 01/17/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/699,153

Applicant(s)

ABDULHALIM ET AL.

Examiner

L. G. Lauchman

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-204 is/are pending in the application.
- 4a) Of the above claim(s) 1-77 and 134-204 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 78-133 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date See Continuation Sheet.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date  
:4/03/2006;12/01/2005;3/12/2004;3/05/2004.

*Election/Restrictions*

Applicant's election **without** traverse of Claims 78-133 in the reply filed on is acknowledged. Claims 1-77 and 134-204 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim.

*Claim Rejections - 35 USC § 112*

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 78-133 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The disclosure of the present application does not adequately set forth a system and a method obtaining overlay measurements. The specification does not disclose the claimed subject of the independent claims 78,101, 107,116, and 129 such as "the first and second sets of gratings are intended to be formed on the wafer with the intended asymmetrical alignment when the first mask and second mask are in alignment", and determining misalignment between the first and second sets of gratings formed using the first and second masks, respectively.

Applicants assert (Appendix A, page A-6, filed on 6/27/2006) that paragraphs 38, 40, and 76 of the present application describe the claimed subject matter. However, Fig. 5 (a & b)

merely shows (in Fig. 5a) periodic structure 13 (51, 53) and (in Fig. 5b) interlaced periodic structure 13 (51, 53) with the periodic structure 15, which "as shown in Fig. 5b has a line-width  $L_3$  and is centered between ... lines 51 and ... lines 53" (paragraph 39). Further, in the same paragraph, the applicants disclose "The misregistration between the first layer 31 and the second layer 33 is equal to the misregistration  $\epsilon$  between the first periodic structure 13 and the second periodic structure 15." The following formula for the misregistration ( $\epsilon$ ) is just a condition for the unit cell to be either "most symmetric" or "most asymmetric". However, the limitation of the above mentioned claims "the first and second sets of gratings are intended to be formed on the wafer with the intended asymmetrical alignment when the first mask and second mask are in alignment" is not adequately described in the specification. Moreover, the limitation appears to be in disagreement with the specification.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to L. G. Lauchman whose telephone number is (571) 272-2418. The examiner's normal work schedule is 8:00am to 4:30pm (EST), Monday through Friday. If attempts to reach examiner by the telephone are unsuccessful, the examiner's supervisor Gregory J. Toatley, Jr. can be reached on (571) 272-2059, ext. 77.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application should be directed to the TC receptionist whose telephone number is (571) 272-1562.

A handwritten signature in black ink, appearing to read 'L. G. Lauchman', with a large, sweeping flourish extending to the right.

L. G. Lauchman  
Primary Examiner  
Art Unit 2877

1/11/2008